



THE CITY OF NEW YORK
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July 28, 2011

VIA ECF

The Honorable Frederic Block
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: Brent Cruceta v. City of New York, et al., 10 Civ. 5059 (FB)(JO)

Your Honor:

Please find annexed hereto the defendant City of New York's Rule 68 Offer of Judgment and plaintiff's acceptance thereof in this matter.

Defendant City also hereby submits its proposed Judgment Pursuant To Rule 68 for Your Honor's execution.

Thank you for your consideration herein.

Respectfully submitted,

/s/

Mark D. Zuckerman
Senior Counsel

cc: David Rankin, Esq. (via ECF)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
BRENT CRUCETA,

Plaintiff,

-against-

THE CITY OF NEW YORK, et. al.,

Defendants.

**RULE 68 OFFER OF
JUDGMENT**

10 CV 5059 (FB)(JO)

-----X

Pursuant to Rule 68 of the Federal Rules of Civil Procedure, defendant City of New York hereby offers to allow plaintiff Brent Cruceta, to take a judgment against it in this action for the total sum of Forty Thousand and One (\$40,001) Dollars, plus reasonable attorneys' fees, expenses and costs to the date of this offer for plaintiff's federal claims.

This judgment shall be in full satisfaction of all federal and state law claims or rights that plaintiff may have to damages, or any other form of relief, arising out of the alleged acts or omissions of defendants City of New York, Jason Guzman and Juan Quintanilla, or any official, employee, or agent, either past or present, of the City of New York, or any agency thereof, in connection with the facts and circumstances that are the subject of this action.

This offer of judgment may only be accepted up to and including April 27, 2011.

This offer of judgment is made for the purposes specified in Rule 68 of the Federal Rules of Civil Procedure and is not to be construed as an admission of liability by any defendant, or any official, employee, or agent of the City of New York, or any agency thereof; nor is it an admission that plaintiff has suffered any damages.

Acceptance of this offer of judgment will act to release and discharge defendants City of New York, Jason Guzman and Juan Quintanilla; their successors or assigns; and all past

and present officials, employees, representatives and agents of the City of New York, or any agency thereof, from any and all claims that were or could have been alleged by plaintiff in the above-referenced action.

Acceptance of this offer of judgment also will operate to waive plaintiff's rights to any claim for interest on the amount of the judgment.

Plaintiff agrees that payment of \$40,001 within 90 days of the date of acceptance of the offer shall be a reasonable time for such payment, unless plaintiff received medical treatment in connection with the underlying claims in this case for which Medicare has provided, or will provide payment in full or in part. If plaintiff is a Medicare recipient who received medical treatment in connection with the claims in this case, the ninety (90) day period for payment shall start to run from the date plaintiff submits to Counsel for Defendants a final demand letter from Medicare.

By acceptance of this Rule 68 Offer of Judgment, plaintiff agrees to resolve any claim that Medicare may have for reimbursement of conditional payments it has made as secondary payer and a Medicare Set-Aside Trust shall be created, if required by 42 U.S.C. §1395y(b) and 42 C.F.R. §§411.22 through 411.26. Plaintiff further agrees to hold harmless defendants regarding any past and/or future Medicare payments, presently known or unknown, made in connection with this matter.

The judgment shall contain and recite the terms and conditions set forth herein.

Dated: New York, New York
April 13, 2011

MICHAEL A. CARDOZO
Corporation Counsel of the
City of New York
Attorney for Defendants *City of New York, Jason
Guzman and Juan Quintanilla*
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By: 151

Mark D. Zuckerman
Senior Counsel
Special Federal Litigation Division

Zuckerman, Mark

From: davidbrankin@gmail.com on behalf of David B. Rankin [David@DRMTLaw.com]
Sent: Wednesday, April 27, 2011 2:54 PM
To: Zuckerman, Mark
Cc: Robert Quackenbush; Lurie Daniel Favors, Esq.
Subject: Brent Cruceta v. The City of New York, et al., 10-CV-5059 (FB) (JO)

Mark,

We're going to be accepting the Rule 68 offer of 40,001 dollars for Cruceta. We'll have our times sheets to you shortly.

Best,
Dave

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5/27/2011